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May 16, 2022

***VIA ELECTRONIC MAIL ONLY ([dpu.efiling@mass.gov](mailto:dpu.efiling@mass.gov))***

Mark D. Marini, Secretary  
Department of Public Utilities  
One South Station, 5th Floor  
Boston, MA 02110

*Re: D.P.U. 21-80, Track 2  
NSTAR Electric Company d/b/a Eversource Energy 2022-2025 Grid  
Modernization Plan*

Dear Secretary Marini:

On behalf of the Cape Light Compact JPE (the “Compact”) attached for filing please find its Initial Brief, along with a certificate of service, in the above-referenced proceeding.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads 'Rebecca F. Zachas'.

Rebecca F. Zachas

RFZ:drb  
Enclosures

cc: Sarah Spruce, Esq., DPU Hearing Officer (via email only)  
D.P.U. 21-80 Service List (via email only)  
Margaret T. Downey, Compact Administrator (via email only)

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES**

NSTAR Electric Company	)	
d/b/a Eversource Energy	)	D.P.U. 21-80, Track 2
2022-2025 Grid Modernization	)	

**INITIAL BRIEF OF THE CAPE LIGHT COMPACT JPE**

Pursuant to 220 CMR §1.11(3) and the Hearing Officer’s Procedural Schedule dated April 11, 2022, the towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet and Yarmouth, and Dukes County, organized and operating collectively as the Cape Light Compact JPE, a joint powers entity organized pursuant to G.L. c. 40, §4A ½<sup>1</sup> and G.L. c. 164, §134 (the “Compact”), hereby submit this Initial Brief.

**I. EXECUTIVE SUMMARY**

NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) proposed certain foundational investments in its Grid Modernization Plan (“GMP”) and advanced metering infrastructure (“AMI”) in its AMI Plan that have the potential to eliminate barriers to time-varying rates (“TVR”) for utilities, municipal aggregators and other stakeholders in the Commonwealth. Exh. ES-JAS-2 at 36; Exh. ES-AMI-1 at 31, lines 2-3. Currently, Eversource is unable to facilitate TVR because of its aging utility infrastructure and the lack of advanced meters. *Investigation by the Department of Public Utilities on its own Motion into the Modernization of the Electric Grid—Phase Two*, D.P.U. 20-69-A, Order at 6 (May 21, 2021)

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<sup>1</sup> The Compact’s Joint Powers Agreement is available online at <https://3jy14ha9u771r7qzn35g0s6c-wpengine.netdna-ssl.com/wp-content/uploads/2021/09/Second-Amended-and-Restated-JPA-FINAL-9-1-21.pdf>.

(“D.P.U. 20-69-A”). The Compact generally supports AMI deployment to all of Eversource’s customers and those foundational investments that will open the utility system to new uses that will benefit customers and help the Commonwealth meet climate goals.

However, a significant source of the customer benefits from AMI deployment in this proceeding would be the implementation of TVR by municipal aggregators,<sup>2</sup> assuming advanced meters were deployed. But, in its AMI Plan, Eversource did not commit to ensure that municipal aggregators would receive meaningful data access and billing once the AMI and foundational investments were installed. To offer TVR, municipal aggregators would require the EDC to facilitate TVR by providing access to interval level energy usage data and billing. In preparing its GMP and AMI Plan, Eversource did not engage with municipal aggregators or other stakeholders in terms of how AMI and new foundational investments would enable municipal aggregators and other stakeholders to receive the data access and billing needed for TVR that Eversource’s current systems cannot deliver.

AMI deployment without ensuring EDC facilitation of municipal aggregation TVR would be inconsistent with the cost benefit standard and precedent of the Department of Public Utilities (the “Department” or “DPU”). Prior DPU orders have laid the groundwork for AMI deployment, in conjunction with the implementation of TVR by utilities, municipal aggregators and other stakeholders. See *infra* Section IV.B at 11. Municipal aggregation TVR has clearly been included, which is important because a growing number of Eversource customers are on

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<sup>2</sup> As a municipal aggregator, the Compact focuses in this brief on data access and billing for municipal aggregation TVR. *Municipal Aggregation Programs*, D.P.U. 16-10, at 14 (July 23, 2017) (“D.P.U. 16-10 Order”) (distinguishing municipal aggregation programs from competitive supply). The Compact recognizes that other stakeholders, including competitive suppliers, may also require such data access for TVR or other demand response uses. In addition, customers’ access to their data is a key benefit to AMI deployment and should be accomplished as close to when AMI is installed as possible.

municipal aggregation supply. *Petition of NSTAR Electric Company d/b/a Eversource Energy for Approval by the Department of Public Utilities of its Grid Modernization Plan*, D.P.U. 15-122, Order at 125 (May 10, 2018) (“D.P.U. 15-122 Order”). Accordingly, municipal aggregators are uniquely positioned to maximize the AMI customer benefits associated with TVR. D.P.U. 15-122 Order at 124.

Given the deficiencies in Eversource’s AMI Plan, the DPU should condition any AMI deployment ordered upon requiring Eversource to facilitate TVR for municipal aggregations by providing meaningful data access and billing. Those directives should include:

- (a) Eversource should commence (1) a stakeholder process as discussed herein no later than three (3) months following the DPU’s Order in this proceeding, and (2) a data access and billing proceeding no later than nine (9) months following the DPU’s Order.
- (b) Eversource’s plan for the data access and billing proceeding should contain the following: (1) opt-out data access for municipal aggregators to offer TVR that includes access to interval level energy usage data at reasonable costs; (2) implementation of billing for a wide variety of municipal aggregator TVR offerings; and (3) performance metrics that encourage data access and billing for third-party TVR.

Finally, the Compact comments on several challenges to municipal aggregators’ authority to develop their own TVR offerings that were raised during the hearings.

## **II. BACKGROUND**

On May 21, 2021, in D.P.U. 20-69-A, the Department of Public Utilities (the “Department” or “DPU”) issued an order requiring Eversource to include in its five-year strategic plan a proposal for full deployment of AMI. D.P.U. 20-69-A Order at 28-30. On July 1, 2021, in the above-referenced docket, Eversource filed with the Department a petition for approval of its three-year GMP along with an AMI Plan. Among other things, Eversource proposed \$198.8 million in grid-facing investments and an estimated \$620 million in a full-scale deployment of AMI. Exh. ES-JAS-2 at 36; Exh. ES-AMI-1 at 31, lines 2-3.

This GMP would cover years 2022-2025, which represents Eversource's second grid modernization term. In D.P.U. 12-76, after an investigation into grid modernization, the Department directed the electric distribution companies' ("EDCs") to file their initial GMPs for the term 2018-2021. *Modernization of the Electric Grid*, D.P.U. 12-76-B, Order at 15 (June 12, 2014) ("D.P.U. 12-76-B Order").

In D.P.U. 15-122, Eversource filed its first GMP that included grid-facing and customer-facing investment proposals, including an opt-in AMI for its basic service customers. D.P.U. 15-122 Order at 30-44. On May 10, 2018, the Department issued its order approving several grid-facing investment categories because they would "make measurable progress" towards grid modernization objectives, but declining to implement AMI because the benefits of a full-scale deployment of AMI did not outweigh the substantial costs as proposed in Eversource's GMP. *Id.* at 115-74. The Department determined that "there was uncertainty" in whether the benefits of a full-scale deployment of AMI outweighed the substantial costs. In part, the Department was concerned by significant customer migration to municipal aggregators and other third-party suppliers, whose provision of TVR faced issues of "access to customer data, billing limitations, and the inherent risk of customer choice." *Id.* at 2. Instead, the Department intended to roll out AMI on a targeted basis to a customer segment with a defined and controllable load (e.g., electric vehicles ("EVs")) as an interim approach to make progress toward grid modernization objectives until a more comprehensive deployment of AMI could be undertaken. *Id.* at 120-21.

### **III. RELEVANT LEGAL STANDARDS**

In D.P.U. 20-69, the Department initiated its investigation into targeted deployment of AMI for EV customers and the EDCs' metering capabilities to "enable [AMI] and dynamic pricing options for [EV] customers." *Investigation by the Department of Public Utilities on its*

*own Motion into the Modernization of the Electric Grid—Phase Two*, D.P.U. 20-69, Order at 6-7 (July 2, 2020) (“D.P.U. 20-69 Order”). That investigation resulted in the Department directing the EDCs to submit GMPs with certain requirements, including a full-scale AMI deployment proposal and a description of how the EDC intended to make measurable progress towards the achievement of the Department’s grid modernization objectives through grid-facing and customer-facing investments. D.P.U. 20-69-A Order at 30.

In D.P.U. 15-122, Eversource’s GMP and AMI Plan included Department review under the following standards: (1) the Department must be persuaded that the benefits of the AMI investments would justify the costs in order to preauthorize the expenditure of the level of funds; and (2) the grid-facing investments in the GMP must “make measurable progress towards meeting the Department’s grid modernization objectives by reducing outages and optimizing distribution system performance, optimizing system demand, and integrating distributed energy resources.” D.P.U. 15-122 Order at 124 (citing D.P.U. 12-76-B at 15), 144. In addition, the Department set refined grid modernization objectives in D.P.U. 15-122, as follows: “(1) optimize system performance (by attaining optimal levels of grid visibility, command and control, and self-healing); (2) *optimize system demand (by facilitating consumer price-responsiveness)*; and (3) interconnect and integrate distributed energy resources.” *Id.* at 106 (emphasis added).

Further, in its TVR investigation, the Department issued an order adopting a TVR policy framework that directed two opt-out TVR offerings for basic service customers and put municipal aggregators and other stakeholders “on alert” that their time for TVR was coming once AMI was deployed. *Time Varying Rates*, D.P.U. 14-04-C, Order Adopting Policy

Framework at 2-3 (November 5, 2014) (“D.P.U. 14-04-C Order”). The D.P.U. 14-04-C Order (at 3) sought to benefit:

all customers by reducing peak energy and capacity market costs; increasing system efficiencies and support the distribution system by reducing peak demand; and providing appropriate incentives for distributed resources such as solar photovoltaic generation, electricity storage, and electric vehicles, as well as targeted energy efficiency and demand response.

In addition to DPU precedent, the Department should consider this proceeding in light of certain state legislation. First, the Restructuring Act allowed municipal aggregations to offer aggregated service that requires cooperation with the EDCs for data access and billing. Restructuring Act, St. 1997, c. 164 (“Restructuring Act”); see G.L. c. 164, §134 (allowing a municipality to aggregate the load of “interested electricity consumers within its boundaries”). The EDCs are required to share customer data with municipal aggregators on an opt-out basis and provide their competitive suppliers a generation line item on aggregation customers’ bills. 220 CMR 11.04 (10), (12). Second, the Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (“Next Generation Roadmap Act”) required the Department to add reductions in greenhouse gas emissions to its criteria for decision-making, and the Commonwealth’s climate goals. An Act Creating a Next-generation Roadmap, Chapter 8 of the Acts of 2021, §94 (the “Climate Act”).

#### IV. ARGUMENT

##### A. **Eversource’s AMI Plan Lacks a Proposal for Meaningful Data Access and Billing for Municipal Aggregator TVR.**

Eversource has proposed certain foundational investments in its GMP and AMI in its AMI Plan that have the potential to bring significant customer benefits by removing current barriers to TVR. D.P.U. 15-122 Order at 124 (citing D.P.U. 12-76-B at 15). Eversource is required to demonstrate customer benefits for the Department to approve its proposals. *Id.*

Currently, customers are unable to access their electric usage information in real time and municipal aggregators cannot offer TVR to all of their customers. Tr. Vol. 5 at 620, lines 14-23. Eversource’s back-office systems are not currently equipped to handle the level of interval meter data necessary to offer complex TVR and AMI has not been deployed. D.P.U. 20-69-A at 26. The Compact has generally supported AMI deployment to all Eversource customers and those foundational investments that would remove this barrier and open the utility system to TVR.

Municipal aggregators require meaningful data access<sup>3</sup> and billing by the EDCs to offer TVR.<sup>4</sup> In D.P.U. 15-122, the Department identified, among other things, the capability of the EDCs to bill for a variety of dynamic pricing products and the ability of suppliers, including municipal aggregators, to access interval usage data as imperative for “the competitive market to develop and offer dynamic pricing products.” D.P.U. 15-122 Order at 136-37.

Yet, Eversource’s AMI Plan barely mentions third-party data access and even then only in the most general of terms: “[s]haring AMI data with 3rd parties will also enable 3rd party suppliers to offer TVRs to their customers.” Exh. ES-AMI-4 at 24. Notably, the AMI Plan does not contain a data access plan, nor any express commitment by Eversource to facilitate data access and billing for municipal aggregators. In comparison, National Grid’s AMI plan included a Data Governance Plan. D.P.U. 21-81, Exh. NG-AMI-4 (July 1, 2021); see D.P.U. 21-80, Acadia Center Comments at 4 (September 8, 2021) (“Acadia Comments”).

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<sup>3</sup> “Meaningful” data access includes an aggregator’s power supplier having access to interval level energy usage data to develop competitively priced offers and communicate savings opportunities to the customers who participate in their programs. See Information Request CLC-ES-1-1.

<sup>4</sup> As a municipal aggregator, the Compact focuses in this brief on data access and billing for municipal aggregation TVR. The Compact recognizes that other stakeholders, including competitive suppliers, may also require such data access and billing for TVR, the provision of which may contribute to AMI benefits. The Compact does not take any position with respect to other stakeholders. In addition, the Compact has not focused on customers’ access to their data, but recognizes it as a crucial benefit to AMI deployment that should be accomplished as close to when AMI is installed as possible.



Further, Eversource in discovery and at the hearings repeatedly deferred questions asking for specifics related to data access for municipal aggregators for TVR, stating that they would be addressed in a future uniform, state-wide data access proceeding. See, e.g., CLC-ES-1-1; Tr. Vol. 5 at 828, line 21 to 829, line 6; AGO 4-17 (stating vaguely that it “expects during the course of AMI implementation to explore additional options for secure data sharing with customers, municipal aggregators, and competitive suppliers).

In addition, Eversource has likewise failed to explain in any detail how its foundational investments would achieve data access and billing for municipal aggregation. Instead, Eversource has offered vague statements that its foundational investments would allow TVR, data access, and billing, assuring that they are “putting in a system that is an industry best practice with SAP. It’s designed with the industry leading practices that are put into place, along with the buildout.” Tr. Vol. 5 at 967, lines 8-12. Further Eversource stated that “[t]he system that we selected, SAP, is used around the world for customer information systems. It already has many utilities that come with time-varying rates. It comes with those modules ready to go.” Tr. Vol. 5 at 968, lines 17-21. Based on this description, the systems sound capable of providing meaningful data access and billing. However, based on the lack of detail and communication, the Department, municipal aggregators and other stakeholders are left to take Eversource at its word that the foundational investments would in fact allow a healthy offering of TVR options by third parties as well as the data access and billing needed for TVR, and that those foundational investments would not impede customers from receiving any of the significant customer benefits associated with TVR in the future. Eversource did not offer to meet with third-party stakeholders prior to submitting its AMI Plan to ensure their needs for TVR were incorporated into its infrastructure plans. Eversource has instead indicated that it would meet with

stakeholders on TVR, data access and billing after it has installed its customer information system (“CIS”). Tr. Vol. 5 at 965 line 10 to 966, line 23. Given these deficiencies in the AMI Plan, it is difficult to determine whether the AMI Plan would result in required customer benefits for municipal aggregation TVR. Notwithstanding, DPU precedent clearly envisions the participation of municipal aggregators in TVR.

**B. Municipal Aggregator TVR Would be a Critical Customer Benefit for AMI Deployment, Requiring Eversource to Facilitate Meaningful Data Access and Billing For Municipal Aggregators As a Condition of Any AMI Approval.**

In D.P.U. 15-122, the Department stated that, prior to preauthorizing the expenditure of ratepayer funds for investments of this magnitude, the Department would need to have a “high degree of certainty” that the benefits of such deployment would justify the costs. D.P.U. 15-122 at 133. The Department has found that “TVR has the potential to deliver significant benefits to reduce peak demand, leading to lower bills and lower emissions from peaking generation.” *Id.* at 133. Specifically, the Department stated that “the primary benefits of [AMI] are derived from reduced peak usage as customers respond to pricing signals. Achieving this benefit requires customers to participate in [TVR] or other dynamic pricing programs.” *Id.* at 2. Eversource acknowledged the significance of TVR as a customer benefit in providing that “TVRs encourage customers to reduce or shift electricity use from high demand peak hours to lower demand off-peak hours and can result in savings on customer electric bills.” Exh. ES-AMI-4 at 24.

In this proceeding, Eversource should be required to demonstrate customer benefits by ensuring that its AMI deployment will result in facilitating municipal aggregator TVR. Prior Department precedent clearly includes municipal aggregators in the TVR framework and the growing number of municipal aggregator customers requires that the benefits of TVR be delivered to them through any AMI deployment. D.P.U. 15-122 at 125. Accordingly,

Eversource should demonstrate how its AMI Plan would achieve municipal aggregation TVR as part of its showing that the benefits outweigh the substantial costs of its proposed AMI deployment. See D.P.U. 15-122 Order at 124, 133.

Approval of Eversource's AMI proposal should depend – at least in some part – on Eversource committing to facilitating municipal aggregator TVR based on Department precedent (below) that clearly envisions EDCs facilitating data access and billing for municipal aggregators to offer TVR. In D.P.U. 20-69-A Order, the Department provided the following concerning the EDCs' required GMP filings in this case:

In light of the Commonwealth's expanding clean energy objectives and the Climate Act's commitment to achieve net zero greenhouse gas emissions by 2050, the Department fully expects that the business cases the Companies present in support of these metering infrastructure investments will bring *robust benefits to ratepayers*, with *more enabling opportunities* than were seen during our review of similar investments in the prior grid modernization plans.

D.P.U. 20-69-A Order at 53 (emphasis added). Thus, as a significant benefit of AMI, data access and billing that would enable the maximization of customer AMI benefits through municipal aggregation TVR should have been considered in the AMI Plan. As shown above, Eversource's AMI Plan has not committed to offering municipal aggregation TVR, and thus the Department cannot be assured that those benefits will be achieved without conditioning its approval of AMI on Eversource ensuring municipal aggregation TVR.

Department precedent requires that Eversource's AMI deployment result in municipal aggregators having access to data and billing for TVR purposes. D.P.U. 15-122 Order at 106 (refining grid modernization objectives). In D.P.U. 15-122, the Department concluded that “[t]o maximize benefits from dynamic pricing, we need an *inclusive deployment strategy* for competitive supply, municipal aggregation, and basic service customers.” D.P.U. 15-122 at 5

(emphasis added). The Department further made clear that, in reference to EDC advanced metering proposals, “data access is crucial for third-parties and competitive suppliers to participate in the modernized grid and provide the benefits of TVR.” D.P.U. 15- 122 Order at 128 (citing D.P.U. 12-76-B at 34).

Further, in D.P.U. 14-04-C, the Department clearly stated its intention to “provide an opportunity for competitive suppliers to develop a *variety of time varying rate products* and for manufacturers to develop new technologies to help customers to manage their electricity costs.” D.P.U. 14-04-C Order at 3 (emphasis added). The Department further provided that its order should “alert competitive suppliers, manufacturers, and others that individual customers, assisted by new technologies (e.g., advanced meters, in-home displays, programmable thermostats, load control devices), will be empowered to respond to the actual varying costs of electricity and save money by altering usage based on price signals that reflect these actual costs.” *Id.*

During the hearings, the Department recognized that Eversource’s role in municipal aggregation TVR would be that of facilitator of that customer data access and billing. Tr. Vol. 5 at 835, lines 15-21 (using “the word ‘facilitate because ... it’s only [Eversource’s] basic service customers that you actually offer TVR. For municipal aggregators and competitive suppliers you just facilitate customer access”). Accordingly, given this Department precedent, Eversource must take on the role of facilitator of data access and billing for municipal aggregation TVR as a result of its AMI deployment and the foundational investments.

Municipal aggregation TVR has become increasingly important because of the growing number of municipal aggregator customers in Eversource’s service territory. Eversource has 65 towns and cities active in aggregation which “equates to about 50% of customers in aggregation.” Tr. Vol. 5 at 922, lines 15-20; see AG-4-12. To maximize the benefits of

Eversource's AMI deployment in this case, the Department should only approve AMI to the extent that Eversource is required to offer data access and billing for municipal aggregation TVR. See D.P.U. 15-122 Order at 125. In D.P.U. 15-122, the Department acknowledged the issue of customers migrating off of basic service to alternatives as a reason for its deferral of approval of AMI in that case. *Id.* at 2, 125. Therefore, municipal aggregation customers should not be bypassed for TVR with this AMI deployment, and should be assured of receiving those benefits.

The Compact has long desired to bring the intended benefits of TVR to its customers, including lower electric bills and environmental impacts. The Compact has fully participated in D.P.U. 12-76, D.P.U. 14-04, D.P.U. 15-122, and D.P.U. 20-69, expressing support for municipal aggregation TVR. D.P.U. 22-22, Compact Petition to Intervene at 3-4. There should be no doubt that, as a municipal aggregator, the Compact believes it is critical to bring these benefits to its customers as soon as possible. See also Exh. GECA-KS-1 at 13, lines 9-17. Indeed, in D.P.U. 14-04-C, the Department disagreed with "the notion that there will not be enough customer load response to [TVR] to create sufficient savings to customers." D.P.U. 14-04-C at 8-9.

Municipal aggregators are uniquely positioned to develop TVR offerings to meet the needs of their customers, while addressing local energy policies and objectives. See Tr. Vol. 5 at 867, lines 18-21; Exh. GECA-Surrebuttal-KS-1 at 14, lines 11-14; DOER-GECA-1-2 at 2. As provided by Green Energy Consumers Alliance ("GECA"):

Municipalities and their Consultants/Brokers are ideal actors to develop innovative energy programs, create demand response programs, and optimize community solar, electric vehicles, battery storage, and other enhanced energy products and services. This will only be possible if the Consultants/Brokers have access to customer-specific bulk AMI data in close to real time.

GECA-DOER-1-2 at 2; Exh. GECA-Surrebuttal-KS-1 at 14, lines 12-14 (stating that “Municipal Aggregation has a proven track record of providing customers service that is lower cost, prices that are more stable, and an innovative array of services that provide distinct environmental benefits.”).

Moreover, the DPU has previously stepped in to ensure that municipal aggregators have information necessary to run their aggregation programs. See D.P.U. 16-10 Order at 18-19. Pursuant to the Restructuring Act, municipal aggregators already work cooperatively with the EDCs to obtain data access and billing for their municipal aggregation service. See *Competitive Market Initiatives*, D.T.E. 01-54-A, Order at 9-10, 12 (October 15, 2001) (“D.T.E. 01-54-A Order”); 220 CMR 11.04(12) (regulations on disclosure of customer usage information); 220 CMR 11.04(10) (regulations governing EDC billing for residential customers on competitive supply). In doing so, municipal aggregators and/or their power suppliers handle certain customer usage data on an opt-out basis. Exh. GECA-Surrebuttal-KS-1 at 14, lines 12-14. In the D.T.E. 01-54-A Order (at 9-10), in providing for data access, the Department recognized similar data access goals as today to:

expand the range of competitive options that are available to consumers. Our challenge is to strike an appropriate balance between providing suppliers efficient access to information that would expand consumers’ options, and respecting consumers’ privacy concerns. Historically, distribution companies have not released customers’ historic usage information to third parties... With the advent of the restructuring of the electric industry and the introduction of competitive retail supply, the importance of this information has increased significantly.

TVR would simply be a continuation of this existing relationship. TVR itself is no more than an extension of a municipal aggregation’s rate-setting authority, akin to standard supply or optional green products that are offered by municipal aggregators. See Exh. GECA-KS-1 at 12, lines 15-18. TVR products would provide customers with more options for pricing to encourage

demand reduction during peak times.<sup>5</sup> See D.P.U. 15-122 at 101; Exh. GECA-Surrebuttal-KS-1 at lines 4-6.

Accordingly, municipal aggregation TVR offers significant customer benefits associated with AMI deployment, and thus Eversource must facilitate TVR for municipal aggregators through meaningful data access and billing. Given the deficiencies in the AMI Plan though, the Department should condition its approval of AMI on ensuring that these benefits are achieved.

**C. Any AMI Approval Should be Expressly Conditioned on Certain TVR and Data Access Requirements.**

Given that Eversource's AMI Plan did not adequately address data access and billing for municipal aggregation TVR to ensure customer benefits from AMI deployment, the Department should expressly condition any AMI approval on certain requirements that will enable municipal aggregators to have the data access and billing required to offer TVR on a timely basis. See D.P.U. 16-10 at 18-19. These DPU directives would be consistent with the Department's D.P.U. 20-69-A Order, D.P.U. 14-04-C Order, and its Climate Act mandates.

**1. Expeditious Department Data Access and Billing Proceeding and Stakeholder Process**

It is critical that the Department require Eversource to move forward expeditiously with a stakeholder process and a data access and billing proceeding. Exh. ES-JAS-1 at 6 lines 13-14 (stating that, in light of the Climate Act, "the urgency of grid modernization has grown rapidly due to these public policy initiatives and advancing technologies"). In D.P.U. 15-122, the Department "identified the need for the EDCs and other stakeholders to develop a uniform statewide data access strategy." D.P.U. 15-122 Order at 129, 136. Eversource has made clear that a Department proceeding on statewide data access is required. See, e.g., CLC-ES-2-1. The

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<sup>5</sup> In *City of Lowell*, D.P.U. 12-124 at 26-28 (November 27, 2013) ("*Lowell*"), the Department found that, unlike EDCs, aggregators have control over their rate-setting. TVR should be considered an extension of that authority.

Department should require the EDCs to commence that proceeding no later than nine (9) months following the Department's Order in this proceeding.

Prior to that filing, the Department should direct Eversource to hold a stakeholder process to engage with municipal aggregators and other stakeholders and better understand their needs to inform the data access proceeding. Eversource has stated that it will work with municipal aggregators and other stakeholders on data access. CLC-ES-1-10. The Department should require that this stakeholder process: (A) include discussion on the data access and billing that is required for stakeholders to meaningfully participate in TVR; (B) include at least three (3) substantive meetings prior to the filing of the Department proceeding; and (C) commence no later than three (3) months following the Department's Order in this proceeding.

Accelerating the proceeding and stakeholder process would result in customers accessing benefits of AMI as soon as possible. The Department should employ its mandate under the Climate Act in this instance to "move as expeditiously as possible to deploy AMI systems and use the system and data to turnaround new programs and opportunities, enable customer choice, and operate the utility system." Exh. CLF-CV at 6, lines 7-10.

It is important to note that any adjudicatory hearing on Eversource's specific TVR proposals would not apply to and should not be allowed to affect municipal aggregators' authority to develop individual TVR offerings. Tr. Vol. 5 at 829, lines 8-13.

## **2. Opt-Out Data Access Requirements**

The Department should direct Eversource to file a data access plan that provides opt-out data access and billing for municipal aggregators to offer TVR that includes access to interval level energy usage data to develop competitively priced offers and communicate savings



opportunities to the customers who participate in their programs.<sup>6</sup> D.P.U. 15-122 at 118 n.54; Information Request CLC-ES-1-1. Such a directive would be consistent with DPU precedent in D.P.U. 14-04-C (at 13) where the Department required an opt-out TVR rate, as well as D.T.E. 01-54-A (9-10) which provided for opt-out data access for third-party providers.

Municipal aggregations already enroll customers and receive customer data on an opt-out basis, pursuant to G.L. c. 164, §134. See GECA-Surrebuttal-KS-1 at 15, lines 3-14.<sup>7</sup> Similarly, municipal aggregators should be able to receive data for TVR on a similar, opt-out basis. GECA-Surrebuttal-KS-1 at 14, line 21 to 15, line 14. The 2016 U.S. Department of Energy study showed that a TVR opt-out enrollment program resulted in an average rate of 92% participation, while opt-in approaches resulted in an average participation rate of 15%. Acadia Comments at 2. The opt-out approach clearly would maximize AMI benefits and thus the data access and billing plan should allow for this opportunity for municipal aggregators. Requiring customers to opt-in to data usage on Green Button would be burdensome and counterproductive. GECA-DOER-1-2(c).

### **3. TVR Billing for Municipal Aggregators**

The Department should require Eversource to extend its current billing for municipal aggregators' customers to TVR offered by municipal aggregators, including a wide array of TVR options. Eversource should ensure that its new foundational systems, including CIS, would permit this function (Tr. Vol. 5 at 618, line 22 to 619, line 19) since the Department has

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<sup>6</sup> It is imperative that any data access costs be reasonable so that they do not act as a barrier to a municipal aggregation offering TVR for its customers.

<sup>7</sup> Eversource's tariff, M.D.P.U. 4, §3A provides:

Customer shall notify the Distribution Company if the Customer chooses to not have their customer information shared with Competitive Suppliers and/or Competitive REA Suppliers, pursuant to D.T.E. 01-54-A; provided that the Distribution Company may not withhold such customer information from a Municipal Aggregator operating a Municipal Aggregation Program serving the municipality or group of municipalities in which the Customer takes Basic Service.

identified billing capabilities of the EDCs as an important aspect of third-party stakeholders developing and offering dynamic pricing products. D.P.U. 15-122 Order at 136-37.

#### **4. New Data Access and Billing Performance Metrics**

The Compact supports the Attorney General’s Office (“AGO”) and Conservation Law Foundation’s proposals to require Eversource to develop performance metrics for TVR that encourage data access and billing for TVR. Exh. AG-WG-1 at 50, 65-66; Exh. CLF-CV-1 at 11, 21-22. The Compact agrees with the AGO’s list of performance metrics, including:

- Count number of customers authorizing third party data access
- Count of residential customers registered to receive high bill alerts
- Count of residential customers who viewed or downloaded detailed energy data
- Count of residential customers authorizing a third party to access energy data
- Count of residential customers billed on a time-varying rate
- Average system-wide demand response per event (in MW) by residential customers

Exh. AG-WG-1 at 67, lines 3-14. The Department should require Eversource to adopt these performance metrics, which should include measurement for base service and municipal aggregation residential, and commercial and industrial customers.

#### **D. Municipal Aggregators Should be Free to Develop Their Own TVR Offerings.**

During the hearings, Eversource raised several challenges to municipal aggregators’ authority to develop their own TVR offerings. On the other hand, the Department seemed to acknowledge that municipal aggregators do not require any Department approval prior to offering a TVR. Tr. Vol. 5 at 822, lines 13-22 (“you don’t need to have an approved TVR for municipal aggregation to offer time-varying rates”); Tr. Vol. 5 at 829, lines 8-13. Once AMI and the foundational investments allow for the data access and billing necessary, municipal aggregators should not be restricted in their TVR offerings, pursuant to their rate-setting authority pursuant to G.L. c. 164, §134; *supra* Section IV.B at 13-14.

First, Eversource has indicated its interest in a standardized, state-wide framework for TVR. Tr. Vol. 5 at 840, lines 16-24. Neither the GMP nor the AMI Plan discuss such a framework, but presumably Eversource may propose it in its TVR proceeding. That framework appears inconsistent with the Department's vision in D.P.U. 15-122 and D.P.U. 14-04 that clearly includes municipal aggregators running their own TVR programs. See *supra* Section IV.B at 10-11 (discussing Department precedent requiring municipal aggregation TVR). While such a standardized TVR may be acceptable for municipal aggregators to opt into by their choice, such a framework should not affect municipal aggregators' authority to set rates for their customers and thus develop their own TVR offerings. See *Lowell* at 26.

In addition, during the hearings, Eversource raised potential barriers to municipal aggregations offering their own TVR programs. Those barriers were shown to be hypothetical situations or ones that could be resolved by communication between Eversource and municipal aggregators. Tr. Vol. 5 at 839, line 14 to 840, line 14; at 995, line 8 to 999, line 2. The Compact respects the need to protect the grid, but municipal aggregators must be free to design TVR offerings that fit their communities to the greatest extent possible. In its role as facilitator of municipal aggregator TVR, Eversource should be obligated to coordinate with municipal aggregators as necessary to accomplish both objectives.

Finally, Eversource seemed to lump municipal aggregators in with the competitive suppliers who are the subject of an AGO report that Massachusetts residential customers taking service on competitive supply are significantly overpaying for electricity. See Tr. Vol. 5 at 871, lines 10-15. In that light, Eversource seemed to suggest the possibility of applying "more oversight to the offerings of competitive suppliers, including municipal aggregators, to make sure that we're maximizing the benefits associated with optimizing system demand on the supply

system.” Tr. Vol. 5 at 832, lines 7-14. This comment should be disregarded. Such oversight is both unnecessary as municipal aggregators are not in fact implicated in those concerns, and not authorized under the municipal aggregation statute, G.L. c. 164, §134.<sup>8</sup> In fact, municipal aggregations offer valued service in communities across the state to provide electric service and are not implicated in the AGO’s concerns with competitive service. Exh. GECA-Surrebuttal-KS-1 at 14, lines 12-14. The Department has previously distinguished municipal aggregation from competitive supply, finding aggregations are held accountable to their customers as elected officials. *Lowell* at 26-28 (acknowledging public officials’ roles in running aggregations); D.P.U. 16-10 Order at 14.

Municipal aggregations must be free to design their own TVR offerings that will maximize the customer benefits of AMI. There is no reason that Eversource and municipal aggregators cannot work cooperatively to offer TVR in a safe and reliable manner that also accomplishes those customer benefits.

## V. RELIEF REQUESTED

The Compact requests the following relief:

- (i) The Department should find that Eversource is required to facilitate data access and billing for municipal aggregators to offer TVR.
- (ii) The Department should find that AMI deployment requires TVR as a critical customer benefit, and Eversource’s AMI Plan did not adequately address TVR, data access and billing for municipal aggregators in connection with its deployment of AMI.
- (iii) Based on those deficiencies, the Department should expressly condition any approval of AMI on certain requirements related to TVR and data access. The

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<sup>8</sup> G.L. c. 164, §134 grants the Department limited authority to review and approve aggregation plans. The statute does not grant the Department a continuing supervisory role over municipal aggregations, which operate in a deregulated environment and under the control of public officials. See *Lowell* at 26-28. Unlike with electric companies, continued supervision of the Department is replaced, in the competitive market, by aggregation customers being able to opt out of aggregation service to return to basic service or sign on with a competitive supplier as well as to elect new municipal officials responsible for managing the aggregation. *Id.* at 28.

Department should direct Eversource to commence a stakeholder process as discussed herein no later than three (3) months following the DPU's Order in this proceeding, and to commence a data access and billing proceeding no later than nine (9) months following the DPU's Order. Eversource's plan for the data access and billing proceeding must contain the following:

- a. opt-out data access for municipal aggregators to offer TVR that includes access to interval level energy usage data at reasonable costs;
- b. implementation of billing for a wide variety of municipal aggregator TVR offerings; and
- c. performance metrics that encourage data access and billing for third-party TVR.

## VI. CONCLUSION

For all of the reasons discussed herein, the Compact requests that the Department issue an Order consistent with the arguments and relief requested in this Initial Brief.

Respectfully submitted,

CAPE LIGHT COMPACT JPE

By its attorneys,



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Dated: May 16, 2022

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES**

\_\_\_\_\_  
NSTAR Electric Company )  
d/b/a Eversource Energy ) D.P.U. 21-80, Track 2  
2022-2025 Grid Modernization )

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing documents upon the Department of Public Utilities and all parties of record in the respective proceedings identified below, in accordance with the requirements of 220 CMR 1.05(1) (Department's Rules of Practice and Procedure).

Dated this 16<sup>th</sup> day of May, 2022.

*Rebecca F. Zachas*

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